

STANDARD FORM 1449 (REV. 2/2012)  
Prescribed by GSA - FAR (48 CFR) 53.212



Miranda Webster - PMA <miranda.webster@gsa.gov>

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## GSA Contract Award - RFP 56535

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**Miranda Webster - PMA** <miranda.webster@gsa.gov>

Tue, Nov 15, 2016 at 12:27 PM

To: Sariah Rodriguez <srodriguez@ageraenergy.com>

Cc: "McCall, Chris M." <CHRIS.M.MCCALL@leidos.com>, "Erica Martunas (Erica.Martunas@enemoc.com)" <Erica.Martunas@enemoc.com>, David Hague - PMAA <david.hague@gsa.gov>

Sariah,

This email serves as official notification that Agera Energy, LLC has been awarded RFP 56535.

Please respond stating that you have received this email.

Award Information is as follows:

RFP: 56535

State: MD

LDC: WG&L MD

Flow Date: 5/1/2017

Terms: 12 Months

Product: Fixed Price - 10% Variance

Price: (b) (4)

Annual Dths: 817,200 dth

Accounts: 1

Type: IT

GSA will send you an official contract within the next 7 business days. Additionally, your NGAP manager is David Hague, [360 696 7564](tel:3606967564), [David.hague@gsa.gov](mailto:David.hague@gsa.gov).

Sincerely,

Miranda G. Webster

Senior Public Utilities Specialist

PBS Office of Facilities Management

Work: [\(313\) 317-9611](tel:3133179611) Cell: (b) (6)

RFP#	NGAP Manager	Flow Date	Agency	Business Name	Service Address City	Service Address Street	State	Zip Code	Account Number	Utility Name	Firm or IT	Total
56535	Dave	5/1/2017	NIST	NIST	Gaithersburg	100 Quince Orchard Road	MD	20878	2150915409	WG&L MD	IT	817,200



## RFP VIEW: 56535 - RETAIL NATURAL GAS

## General Information

Description:	<b>12 Month-10% Variance-Option I</b>	Total Quantity (Term):	<b>817,200 Dth</b>
Customer Name:	<b>General Services Administration (GSA)</b>	Number of Accounts:	<b>1</b>
Customer Contact:	<b>Miranda Webster</b>		
Deal Number:	<b>31680</b>	Announcement:	<b>10781</b>
State/Province:	<b>Maryland</b>	Last Updated:	<b>Erica Martunas, 11/15/2016 7:43:00 PM</b>
Country:	<b>USA</b>		
Delivery Point:	<b>Washington Gas &amp; Light Company (GAS)</b>		
Load Type:			
Rate Class:			

## Auction Information

Auction Start Time	<b>11/15/2016 9:00:00 AM</b>	RFP Status:	<b>Closed: Awarded</b>
Auction End Time:	<b>11/15/2016 11:20:00 AM</b>	Opening Bid (\$/Dth) :	<b>7.00000</b>
Auction Type:	<b>Open</b>	Reserve Price (\$/Dth):	<b>N/A</b>
Auction Format:	<b>Reverse - Buy</b>	Time Left:	<b>Auction Ended</b>
Auction Currency:	<b>USD - US Dollar</b>	Total Bids:	<b>12</b>
Bid Significant Digits:	<b>3</b>	Low Bid (\$/Dth):	<b>(b) (4)</b>
Bid Increment (\$/Dth):	<b>0.00100</b>	Low Bidder:	<b>Agera Energy, LLC</b>

## Contract Information

Delivery Start Date:	<b>5/1/2017</b>	Bill Type:	<b>Dual</b>
Delivery End Date:	<b>4/30/2018</b>	Payment Terms (days):	<b>30</b>
Contract Duration:	<b>12 months</b>	Payment Terms Description:	<b>Days from Receipt</b>
		Transaction Type:	<b>Physical</b>

## Additional Contract Information

Exact Volumes:	<b>False</b>	Minimum Bandwidth Required (%)	<b>10.00</b>
Full Requirements:	<b>True</b>	Service Reliability:	<b>Interruptible</b>
Counter-Party Providing Balancing:	<b>True</b>	Trigger Rights Requested:	
Counter-Party Providing LDU Noms:	<b>True</b>		

## Pricing Information

Form of Pricing:	<b>Fixed</b>	Pricing Index:	
		Index Price Estimate:	

## Pricing Components

## Additional Information

Comments to Bidders:

## Sealed Bid Optional Parameters

Matrix Pricing:	<b>False</b>	Allow Partial Volume:	<b>False</b>
Binding:	<b>False</b>	Minimum Volume (Term):	
Bid/Offer Emails:	<b>On Except Day Auction Ends</b>		

### Bidder Engagement Rules

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Enforce Bidder Credit : **False**  
Show Reserve Price: **False**  
Show Reserve Status: **False**

### Exchange Fees

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Exchange Fee Type: **Fixed**  
Total Fee (\$/Dth): **0.05000**

Payment Type: **Bidder**  
Payment Terms: **Over the Term**

### Sites

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See RFP announcement for details.

### Flow Information

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See RFP announcement for details.

### Documents

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No documents found.

### Group Access List

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Group Name	Description
NGAP	Natural Gas Acquisition Program
NIST	Part of NGAP

### Contracts

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No Contracts found.

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RFP BID HISTORY: 56535 - NATURAL GAS

GENERAL SERVICES ADMINISTRATION (GSA)

Fixed - 12 mo. - 12 Month-10% Variance-Option I

**Auction Information**

Auction Start Time: 11/15/2016 9:00:00 AM EPT  
Auction End Time: 11/15/2016 11:20:00 AM EPT  
Total Quantity (Term): 817,200 Dth  
Opening Bid (\$/Dth): (b) (4)  
Reserve Price (\$/Dth): N/A  
Reserve Status: N/A

RFP Status: Closed: Awarded  
Time Left: Auction Ended  
Total Bids: 12 Unique Bidders: 7  
Low Bid (\$/Dth): (b) (4)  
Low Bidder: Agera Energy, LLC

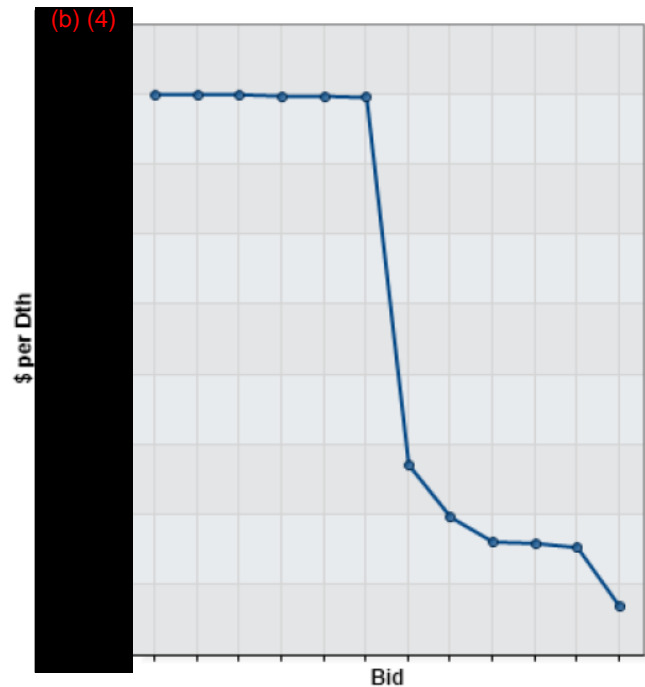
**Auction Generated Savings**

First Bid (\$/Dth):  
Best Bid (\$/Dth): (b) (4)  
Your Total Quantity: 817,200 Dth  
Cost - First Bid: \$0.00  
Cost - Best Bid: (b) (4)  
Total Auction Generated Savings :  
(\$2,737,620.00) or 0.00 %

**Market Benchmark Savings**

Price-to-Compare (\$/Dth): 4.24000  
Best Bid (\$/Dth): (b) (4)  
Your Total Quantity: 817,200 Dth  
Cost - Price-to-Compare: \$3,464,928.00  
Cost - Best Bid: (b) (4)  
Total Market Benchmark Savings :  
(b) (4)

**Price Graph**



**Bid History**

Company Name	Bid Amount	Date and Time of Bid
Agera Energy, LLC	(b) (4)	11/15/2016 11:19:36 AM
1		

## ATTACHMENT 3: CONTRACTOR INFORMATION

1. COMPANY: Ageva Energy LLC

COMPANY NAME:

ADDRESS: 555 Pleasantville Rd S107  
Briarcliff Manor, NY 10510

Telephone Number:

Fax Number:

E-Mail Address: SLaker@agevaenergy.com

DUNS Number (SAM) 079 334 523

Tax Identification Number (TIN): (b) (4)

CAGE CODE: 7K855

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### 2. POINT OF CONTACT INFORMATION:

#### A. For CONTRACT ADMINISTRATION:

Name: Steve Laker

Address: 555 Pleasantville Rd S107

Briarcliff Manor NY 10510

E-Mail Address: SLaker@agevaenergy.com / regulatory@agevaenergy.com

Phone: 914 205 5852

FAX:

#### B. For REMITTANCE

Name: Ageva Energy

Address: PO Box 20277

Waco, TX 76702

E-Mail Address: accounts payable@agevaenergy.com

Phone: 914 205 5852

FAX:

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### 3. EFT WIRE TRANSFER INFORMATION:

Name and Address of Financial Institution:

Nine Digit Routing Number:

Depositor Account Title:

Depositor Account Number:



## ATTACHMENT 4: CONTRACTOR ACKNOWLEDGEMENT – REVERSE AUCTION

By signing Attachment 4, the Contractor and party responsible for bidding on behalf of the Contractor through this reverse auction hereby state that they have read, have been given a fair opportunity to ask questions about, and agree to the terms of this Solicitation. Additionally, the Contractor understands and agrees to the following:

- This procurement will be run through a reverse auction hosted by EnerNOC.
- Offeror's should not submit pricing with the required paperwork as described in Section C.3 of this Solicitation as all prices will be submitted through the EnerNOC auction platform.
- All bids submitted through the reverse auction will be "blind bids" in that the lowest price bid will be shown but the name of the supplier bidding will not.
- Auctions will be organized by RFP number. Only prices offered before the specified end time for each RFP will be accepted. Any price received after the specified end time will not be accepted by the Government even if it is the lowest price
- Different Contractors can win for different auction events and different Contractors winning different auction events is common.
- Offerors should not enter anything into the bid deadline or comments section within each RFP shown in EnerNOC auction platform. Bids that do not conform to the Government's solicitation (e.g. alternative terms or conditions are submitted) will be thrown out by the Contracting Officer and considered invalid. Bottom Line: Only submit a price during the auction, nothing else!
- Though the auction platform is not difficult to use, it is strongly suggested that each Offeror understands how to use the auction platform prior to the day of the auction. It is the Contractor's responsibility to be fully familiar with the auction platform prior to the auction event(s) occurring.
- In order to participate in auctions, offerors must register on EnerNOC website prior to the day(s) the auction is held.
- Offerors are advised to submit their best and final price prior to the final minute of the auction. Any internet related problems (including connection speed, internal software, user error, network problems) are the express responsibility of the offeror.
- Per Section A.5- Term - It is the winning Contractor's responsibility to ensure that service starts on either the date specified in the auction schedule in Section C or the next meter read date immediately following the date specified in the auction schedule.
- Per Section A.8 -Nominating and Balancing Responsibilities –Winning Contractors are responsible for all nominating and balancing requirements and it is the Contractor's responsibility not the facilities responsibility to gather all of the necessary information related to managing accounts.
- Per Section A.19 – Procurement Fees – All bid prices must be inclusive of EnerNOC' s fee.
- Per Section C of the Solicitation, Offerors are required to hold the price they bid until the date and time specified in the procurement schedule.



- If NYMEX Henry Hub prompt month gas prices as quoted at [www.nymex.com](http://www.nymex.com), move up or down more than 5.0% at any time between 11:00 AM and 2:00 PM EST on the day of the auction; the Government will not require suppliers to hold their bid prices if award notification has not already been provided though suppliers may do so at their own risk. A supplier must notify the Contracting Officer via e-mail at [miranda.webster@gsa.gov](mailto:miranda.webster@gsa.gov) if they wish to withdraw a bid. Verbal communication of bid withdrawal will not be accepted. Documentation that the market has moved more than 5.0% per the parameters above must be provided at the time notification is given. Subsequent awards may be made to those suppliers that elect to hold their pricing even if their price was higher than the bid being withdrawn.

CONTRACTOR

(b) (6)

(Authorized Signature)

Printed

Name

(b) (6)

Title:

CEO

Date:

8/15/16

## ATTACHMENT 5: FREQUENTLY ASKED QUESTIONS

By signing Attachment 5, the Contractor and party responsible for bidding on behalf of the Contractor through this reverse auction hereby state that they have read, have been given a fair opportunity to ask questions about, and agree to the terms of this Solicitation. Additionally, the Contractor has read and understands the following Frequently Asked Questions:

Q1: Will accounts be grouped by regions or utilities?

**A1: Accounts will be grouped first by Local Distribution Company (LDC), then by rate class and type (firm vs. interruptible). Customer specific preferences will also be considered when grouping accounts into RFPs.**

Q2: Do suppliers have to bid on all accounts in a specific utility or region?

**A2: Not necessarily. However, suppliers must bid on all accounts included in each RFP. For example, if a particular RFP includes five accounts the bid must apply to all accounts. Suppliers will not be allowed to “cherry-pick” accounts within RFPs. The number of accounts included in each RFP will depend on the number and types of accounts included in each LDC.**

Q3: Do suppliers have to bid all terms for each account auctioned?

**A3: No. However, realize there is a risk if a supplier chooses to only bid on one RFP and the Government decides to different RFP for a different term or pricing product. It is strongly suggested suppliers bid all RFPs offered for each account or group of accounts.**

Q4: Do suppliers have to bid all pricing products if multiple ones are requested for a specific facility?

**A4: No, suppliers can decide to bid one, all or none.**

Q5: Once a supplier submits a bid, is it considered a firm bid?

**A5: Yes. Per the terms of the Solicitation, once a bid is entered the supplier is contractually required to hold that bid until the time specified in the Solicitation and Exhibit 1 even if it is not the lowest price bid in the auction except as specified in Section C.1 regarding the event of more than 5% market movement between 11:00 AM and 2:00 PM EST on the day of the auction.**

Q6: Does the Government have to accept the lowest price bid?

**A6: No. Just because a supplier has the lowest bid at the end of an auction, it does not mean that the customer will accept the price. Suppliers will be notified by the GSA Contracting Officer if the supplier's price has been accepted and an award will be made.**

Q7: Will the Government make the prices they want to beat available to suppliers?

**A7: No. The Government suggests suppliers bid as aggressively as possible as this will provide the best chance for contract award.**

Q8: Does Section A.25 on Force Majeure apply to Option I, Option II and Option III bids?

**A8: Force Majeure applies to all contracts awarded regardless of pricing type awarded.**

Q9: Does Section A.25 on Force Majeure apply to physical delivery, the financial portion of deals suppliers make to supply the gas, or both?

**A9: This contract only deals with the physical supply portion of the contract. How the supplier contracts for the gas be it production, financial contracts, or some other means is the supplier's concern. Liquidated damages, cost reimbursements for hedging positions, etc are addressed in Section A.26. One very important part of this section is that contractors must be able to provide all documentation to support the claim of Force Majeure for this section to apply.**

Q10: Are the volumes posted in Exhibit 1 adjusted for degree days?

**A10: The volumes are not adjusted for degree days.**

Q11: Are the volumes posted in Exhibit 1 adjusted for alternate fuel usage?



**A11: The volumes in Exhibit 1 have been adjusted for non-firm accounts with alternate fuel sources as provided by end-use customers.**

Q12: Is the supplier expected to manage the gas to the citygate or the burnertip?

**A12: The supplier is expected to deliver gas to the citygate and manage it to the burnertip**

Q13: Some utilities have balancing fees that are passed along via the supplier; should bid prices include balancing fees?

**A13: Per Section A.8, any balancing fees passed through by utilities to suppliers should be treated as pass-through costs and per Section A.17 these should be included on the supplier's invoices as an itemized line item.**

Q14: How should suppliers estimate the value of the proof of letter of credit / insurance needed to comply with the requirement of Section C?

**A14: Multiply the historical value of all RFPs your firm expects to bid on by \$5.00 as an average price per unit per dth.**

Q15: When will the first Exhibit 1 including an auction schedule and monthly data be provided to suppliers?

**A15: Approved suppliers will be notified as soon as the first Exhibit 1 is released.**

Q16: When is the small business subcontracting plan due?

**A16: Per Section C, a draft small business plan is due with technical proposals. Additionally, the final small business subcontracting plan must be submitted within two weeks of the award of a contract.**

Q17: What does FAR stand for and where can more information be found?

**A17: The Federal Acquisition Regulations associated with this contract are included in this solicitation in Section B. All FAR clauses can be found in full at [www.acquisition.gov](http://www.acquisition.gov)**

Q18: How does FAR 32.9 (Prompt Payment Act) apply to this contract?

**A18: Invoices are to be paid within 30 days of receipt of a proper invoice by the Government.**

Q19: How does the Memorandum of Understanding (MOU) apply to this contract?

**A19: Agencies that wish to utilize this contract are required to sign an MOU with GSA NGAP specifying business rules and giving GSA authorization to accept bids and award contracts on their behalf.**

Q20: What is a DUNS number and how does it apply to this contract?

**A20: All offerors must provide their Data Universal Numbering System (DUNS) as part of filling out Attachment 3 which must be submitted as part of the technical proposal. The website for Dunn and Bradstreet is [www.dnb.com](http://www.dnb.com).**

Q21: Should suppliers with more than one DUNS number use the one for their specific office or the corporate one and is there any relationship between DUNS and billing?

**A21: Suppliers should use the DUNS number found in the System for Award Management (SAM) system that ties to the entity committing to the contract award and that will receive payment.**

Q22: Are there any advantages to being a large business vs. a small business for purposes of this procurement?

**A22: This solicitation is for full and open competition.**

Q23: How should suppliers come up with employee count (include parent, affiliate, etc)?

**A23: Your firm's employee count should tie to the information provided in SAM and the DUNS number provided.**

Q24: What would constitute evidence under C(b)(10) as proof of the offer being able to bill and nominate?

**A24: Provide a general narrative including how long your firm has been providing these services within each utility you plan to bid on, the number of clients you serve and total annual volume delivered in each utility.**

Q25: If suppliers turn in their technical proposals early, can the Government provide feedback to suppliers regarding any parts of their technical proposals that are not acceptable?

**A25: Yes. The Government will do its best to work with suppliers, time permitting, to request additional, incomplete, or missing information.**

Q26: How does the procurement fee apply and how is it paid?

**A26: This fee applies to all dths delivered under the terms of this contract for all facilities served for the entire term of each contract. Additional payment instructions can be found on the auction website. This fee must be included in all bid prices.**

Q27: Are suppliers responsible for storage accounts?

**A27: It is the supplier's responsibility to manage storage with the LDC. Refer to Section A.8 regarding Nominating and Balancing**

Q28: Is the supplier responsible for LDC cash out costs?

**A28: If there is any cash out, the gas will need to be trued up to the contract price. Refer to Section A.8 regarding Nominating and Balancing.**

Q29: Will the account data provided in Exhibit 1 be broken down into yearly or monthly volumes?

**A29: The most recent twelve months of burner tip usage data available to NGAP at the time the account is included in the Exhibit 1 will be provided.**

Q30: Will suppliers be held against the usage data that the Government provides to them to adjust for volumes provided above or below the usage variance referenced for pricing Option I?

**A30: Yes.**

Q31: Under Section A.22 Taxes, are suppliers supposed to include gross receipt taxes in bid prices?

**A31: No. Gross receipt tax is a pass-through and should not be included in the suppliers' bid price. In utilities where Gross receipts taxes are applicable the Government will pay it; however, suppliers will need to list it as a separate line item on invoices. Any pass-through charges from the LDC or the state should not be included in suppliers' bid prices.**

Q32: What confidences do suppliers have that they are bidding an "apples to apples" price through the auction platform?

**A32: Suppliers should have 100% confidence that they are bidding on an "apples to apples" basis. All suppliers know at the time of the auction what their price must include. By signing Form1449 which is required as part of Technical submittals, and submitting the technical requirements package, suppliers are signing off that they agree to all terms of this Solicitation and that they understand all terms and requirements listed in the Solicitation.**

Q33: Will the auction schedule in Exhibit 1 indicate whether the customer wants Option I, Option I, or Option III pricing?

**A33: Yes.**

Q34: How is margin associated with the allowed usage variance volumes under Pricing Option 1 addressed?

**A34: Per the example included in Section A.3 under Pricing Option 1, The price of gas burned in excess of 110% of historical volumes shall be found by using the applicable monthly price index published as "Midpoint Averages" in the monthly Gas Daily Price Guide for the associated month,**



**plus transportation if any (if citygate index price no transportation will be added), fixed margin of \$0.10 per dth, and procurement fee of \$0.05 per dth (as defined in Section A.19).**

Q35: For charges that are from a pool; where the customer is part of an aggregation pool, and the balancing charge is not customer specific; do suppliers need to include the balancing charge in their price / dth bid?

**A35: Yes, suppliers are required to include balancing charges in their bid prices since they are dealing with a pool.**

Q36: If a supplier has submitted a technical proposal in response to previous GSA natural gas supply solicitations, do they still have to submit a new technical proposal?

**A36: Yes. Even if you have submitted a technical proposal in response to a previous GSA opportunity, you will still need to submit an updated technical proposal in response to this opportunity. One reason GSA requests updated technical proposals each year is because many suppliers add to or decrease the number of utilities they are able to serve on a year over year basis. Include license / transport agreements / certification information for all of the utilities you plan to bid on as your firm will only be assigned to the auction events within utilities where you are able to transport third-party natural gas.**

Q37: Will GSA provide a list of the contracting agencies and facility points of contact that suppliers will be signing supply contracts with as a result of awards?

**A37: No. There will only be one contracting entity which will be GSA. GSA will be the only agency making a contract award. GSA's NGAP staff will work with awarded suppliers to assist in getting a Delivery Order in place between the supplier and end-use facility/agency which will include contact information for the facility P.O.C. and billing information. All bills will be paid by the end-use agencies and should not be sent to the GSA Energy Division or GSA NGAP for payment.**

Q38: Do suppliers need to be on a GSA schedule to participate in this bid?

**A38: No. This procurement is for full and open competition and suppliers do not need to be on a GSA schedule to participate. Supplier qualification will be based on the GSA Energy Division's evaluation of technical proposals.**

Q39: On pricing Option III, will the respective fixed and index volumes be based on historical volumes or the actual volumes that flow through each meter?

**A39: Actual**

Q40: The language in Section A.5 Term reads, "The service start date shall be either the date specified in the auction schedule in Section C or the next meter read date immediately following the date specified in the auction schedule in Section C." As past GSA Exhibit 1's have stated the first day of the month as the service start date for most if not all accounts, can GSA provide actual start dates if they are not on the first day of the month?

**A40: GSA will make every effort to provide specific start dates for accounts that have start dates that are not on the first day of the month. However, as in many cases GSA will be signing contracts with supplier's months in advance of the actual start date, GSA cannot ensure that we will be able to provide the specific meter read date as in many cases they are subject to change by the utility. It will still be the winning supplier's responsibility to ensure that natural gas supply service either starts on the date specified in the auction schedule or the next meter read date immediately following this date.**

Q41: Will enrollment data be provided by GSA?

**A41: Yes. In the award notification from GSA, one of the GSA NGAP account managers will be designated as your point of contact to assist with the enrollment and billing process for each facility.**

Q42: Is Electronic Data Interchange (EDI) billing between the supplier and end-use customer required by this RFP? Our firm has seen this requirement in other Federal supply solicitations.



**A42: No. EDI is not required from the standpoint of billing between suppliers and end-use customers. However, if it is the requirement of a specific utility to require that a supplier be EDI capable in order to be licensed to serve accounts in that utility; the supplier will need to ensure they are compliant with this requirement as GSA will need a copy of your license for each utility you plan to bid in.**

Q43: Once an award has been made, will GSA allow for supplier price adjustments if the market moves up or down over the term of the contract?

**A43: Per Section A.4 Contract Pricing, the only changes in price allowed over the term of awarded contracts will be in reference to volumes used outside of the allowed usage variance associated with pricing product Option I or the index portion of pricing product Option III. There will be no price adjustment under Option II.**

Q44: Are line losses to be included as part of the allowed usage variance provision associated with pricing product Option 1 (Full requirements with a specified usage variance)?

**A44: Per Section A.9, line losses are not included as part of the usage variance provision.**

Q45: Under Section A.3 Gas Supply, will GSA be specifying which publication (Inside FERC, Gas Daily or Natural Gas Intelligence) suppliers should use for each account?

**A45: Yes, the Gas Daily Price Guide**

Q46: Can suppliers switch between Gas Daily Price Guide pricing points over the term of the contract for a specific account?

**A46: No. Once the applicable Gas Daily Price Guide pricing point has been chosen and documentation provided to the account manager, Contractors will not be allowed to switch for the remainder of the contract.**

Q47: What non-price determinations has GSA used in the past to make awards to bidders who did not submit the lowest bid?

**A47: Per the Solicitation, this procurement follows a two-step process. The first step is GSA's evaluation of supplier's technical proposals. Those suppliers whose technical proposals are deemed acceptable by GSA will be allowed to participate in auctions for the utilities they are approved to bid in. Therefore, on the day of the auctions the only consideration GSA uses to make awards is price and customer preference on terms and pricing products (if multiple terms and pricing products are requested by the customer).**

Q48: Can you please provide a more thorough explanation as to how GSA is going to request pricing under Section A.3 OPTION III. Please explain what components of the price are locked in fully, and which are not and how the price is to be reflected? Will each marketer submit two prices in order to facilitate an apples to apples comparison?

**A48: Bidders may be asked to submit either a basis only price for all transportation costs or a basis price and a firm fixed price for the designated percentage of gas the customer wants to lock in at the time of auction. If the latter option is requested, EnerNOC's auction platform will calculate and show one number on the platform that combines the two price components in order to show an "apples to apples" bid comparison.**

Q49: Is supplier responsible for imbalance cash outs with LDC when imbalance volume is within LDC's permitted tolerance and there is no premium or discount affecting the monthly cash out?

**A49: Attachment 5 Frequently Asked Questions and the Q&A referencing LDC cash-out costs which states that If there is any LDC cash out, the gas will need to be trued up to the contract price.**

Q50: The values of the line losses are calculated by the LDC and pipeline companies. The reports are received by the contractor up to 4 months after the billing for the consumption has been issued. How should the contractor true up these costs in the invoice? We assume that as long as the contractor is reasonably prompt in billing the losses after the final values are received, that the GSA will accept the



invoices even if this is after the contract expiration.

**A50: Per Section A.9 Line Losses, all costs associated with pipeline and LDC line losses are to be included in bid prices.**

Q51: Will an updated Exhibit 1 that includes the accounts and their information be posted before technical are due?

**A51: A Preliminary Exhibit 1 has been included in this Solicitation in Section C and provides a list of the accounts GSA expects to procure natural gas supply for during FY16. While the accounts listed in the Preliminary Exhibit 1 have an annual combined annual usage of 9.3 million dths; 31 Federal agencies with a combined annual usage profile of 21 million dths currently utilize NGAP to procure natural gas supply. Therefore, GSA encourages suppliers to submit technical proposals for all of the LDCs listed in Section A.1 as accounts not listed in the Preliminary Exhibit 1 may also request forward pricing during the term of this solicitation and only those suppliers that submit evidence of technical capacity and are approved will be allowed to bid on these accounts.**

Q52: Regarding the different pricing options, for example Option I - 10% Variance and Option II – Full Requirements, who decides which pricing options to request?

**A52: The NGAP managers work directly with each facility that goes out to auction and the end-use facility has the final say as to which pricing options they would like to request.**

Q53: Is it rare that Section A. 26 Special Contract Termination – Liquidation of Contract Positions, is ever used?

**A53: Yes. GSA would only use this clause in a Termination for Default or Termination for Convenience situation. Both are extremely rare.**

Q54: Section C.3 (b9) requests copies of contracts and contact information for 5 largest customers – according to our policies we cannot give copies of customer contracts. We can provide customer references. Is this acceptable?

**A54: Per Section C.3 (b9) of the Solicitation, GSA does not require copies of contracts with customers. Attachment 5 lists copies of contracts, financial statements and other items as “examples” of required evidence.**

Q55: Explain what constitutes as the “usual and necessary steps” referenced in Section A.12, Protection of Contract Information?

**A:55: Those measures taken to safeguard proposal and contract documents from disclosure pursuant to FAR 3.104-4: Disclosure, protection, and marking of contractor bid or proposal information and source selection information; and 15.207: Handling of proposals and information, which include maintaining such documents in secured file cabinets and file room areas with limited access.**

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CONTRACTOR

(b) (6)

(Authorized Signature)

Printed

Name:

(b) (6)

Title:

CEO

Date:

9/6/10

## **ATTACHMENT A: INSTRUCTIONS TO THE ORDERING OFFICER**

### **INSTRUCTIONS TO THE ORDERING OFFICER**

#### **DELIVERY/TASK ORDERS (PURCHASE ORDERS)**

Upon award of the contract, each facility Contracting Officer shall prepare a Delivery/Task Order (Purchase Order) providing all the information pertaining to each facility including the accounting and appropriations information. Upon completion and execution of the order by the Agency and the Contractor, a copy of the executed order shall be forwarded to the account manager identified in the contract.

The order shall be for period specified in the contract.

Accounting and appropriations will be managed internally by each facility based on their agency's requirements.

Please insure that additional or conflicting Contract Clauses are not included.

Prior to or in conjunction with receiving services under the GSA Natural Gas Contract each facility must have a separate agreement in place with their servicing Local Natural Gas Utility Distribution Company (LDC) to allow for the transportation of third party gas. NGAP will provide assistance in arranging your transportation agreement.

If you have any questions or need assistance please contact the NGAP Contracting Officer at [Miranda.Webster@gsa.gov](mailto:Miranda.Webster@gsa.gov) or [energy@gsa.gov](mailto:energy@gsa.gov).

## SECTION A: SCOPE OF WORK

### A.1 GENERAL TERMS

The General Services Administration's (GSA) Energy Division is issuing this solicitation for the supply of natural gas to end-use facilities located across the United States. This contract will be administered by the contracting officer and account managers of GSA's Natural Gas Acquisition Program (NGAP). Currently, thirty-one federal agencies utilize NGAP to purchase gas for 374 end-use accounts located in thirty-five (35) states and seventy-two (72) natural gas utility service territories. These accounts purchase in excess of \$89 million of third-party natural gas supply contracts annually through NGAP. GSA will make all contract awards on behalf of the agencies that use NGAP to purchase third-party natural gas but each of the agencies is responsible for paying their own bills.

It is the desire of the U.S. Federal Government to secure the lowest cost for natural gas supply and the transportation of such natural gas supply to Federal facilities utilizing the most direct pipeline into the serving Local Distribution Company (LDC), therefore GSA is issuing this Request For Proposals (RFP) for pricing of natural gas supply, transportation, and delivery (including any/all directly related ancillary and/or incidental services necessary) of natural gas supply for the various Federal facilities and delivery points contained in Exhibit 1 broken out geographically by regions. The facilities usage data files will be provided seven working days prior to the date of the reverse auction for the particular region. The facilities are located in the following local distribution companies (LDC):

#### LOCAL DISTRIBUTION COMPANIES

AR	Arkansas Western Gas Company
AR	ARLKA Centerpoint
AZ	Southwest Gas
AZ	Unisource Energy Services
CA	Pacific Gas & Electric
CO	Atmos Energy
CO	Xcel Energy/ Public Service Company of Colorado
DC	Washington Gas & Light, DC
DE	Delmarva Power
FL	TECO Peoples Gas
GA	Atlanta Gas Light
IA	Alliant Energy
IA	MidAmerican Energy
ID	Intermountain Gas Company
IL	Ameren Illinois
IL	NICOR
IL	Peoples Gas
IN	Citizens Gas Coke
IN	Vectren
KS	Kansas Gas Services
KY	Columbia Gas of Kentucky
KY	Delta Natural Gas
MA	Berkshire Gas
MA	Columbia Gas
MA	Eversource
MA	National Grid
MD	Baltimore Gas & Electric
MD	Columbia Gas of Maryland
MD	Washington Gas & Light, MD
MI	Consumers Energy
MI	DTE Energy

MI	SEMCO
MN	Centerpoint Energy
MN	Minnesota Energy Resources
MO	Laclede Gas Company
NC	Piedmont Natural Gas
NC	PSNC Energy
NE	Source Gas
NH	Liberty Utilities
NJ	PSE&G
NJ	South Jersey Gas
NM	New Mexico Gas Company Inc.
NV	NV Energy
NV	Southwest Gas
NY	(Corning) Bath Electric, Gas & Water
NY	Central Hudson
NY	Con Edison
NY	National Fuel Gas Distribution
NY	National Grid
NY	NYSE&G
OH	Cincinnati Gas & Electric
OH	Columbia gas of Ohio
OH	Dominion / East Ohio Gas
OH	Duke Energy – Ohio
OH	Pike Natural Gas Company
OH	Vectren Energy Delivery
OK	Oklahoma Natural Gas
PA	National Fuel Gas Distribution
PA	PECO
PA	Peoples Natural Gas
PA	Philadelphia Gas Works
PA	UGI
PA	UGI Central Penn
PA	UGI Penn
RI	National Grid
TX	Atmos Energy
TX	Centerpoint Energy
TX	Texas Gas Service
UT	Questar
VA	Columbia Gas of Virginia, Inc
VA	Virginia Natural Gas
VA	Washington Gas & Light - VA
WA	Avista Utilities
WA	Cascade Natural Gas
WI	Wisconsin Gas
WV	Dominion / Hope
WV	Mountaineer Gas

The winning Contractor will be responsible for the following duties:

- a) Supply of firm or interruptible natural gas supply for delivery to various Federal facilities listed in Exhibit 1 including LDC, interstate and intrastate pipeline losses;
- b) Manage, nominate and schedule transportation service with the Local Distribution Company (LDC) to the citygate and manage the gas to the burnertip for each Federal facility account;
- c) Communicate directly with the LDC to balance scheduled and actual receipt and delivery of Federal facility's gas pursuant to the LDC's Transportation Service Agreement and this contract;
- d) Coordinate its actions with the LDC and the agency point of contact for each Federal facility

- account; and
- e) Perform all other incidentals necessary to execute the duties set forth in subsections (a), (b), (c) and (d) above.

## **A.2 BIDDING PROCESS**

The Government will utilize an internet based transaction platform provided by the team of EnerNOC. This internet based transaction platform, commonly called a reverse auction (hereafter "Reverse Auction"), offers the Government a more dynamic bidding process to facilitate market pricing.

Contractor's prices shall be submitted to GSA utilizing an internet based transaction platform provided by EnerNOC in accordance with the instructions in Section C. Prices submitted through the exchange will EXCLUDE Sales Tax (ST).

## **A.3 GAS SUPPLY**

The terms and conditions of this agreement will govern both Firm and Interruptible accounts, as specified by the LDC rate class designations detailed in the Exhibit 1.

**The supply of natural gas to be provided to each federal facility account shall be a fixed and / or indexed price for the facility's full requirements/usage for the term specified for all gas supply and pricing options herein.**

Unless otherwise specified in Exhibit 1, an account is defined by account number, not street address, and comparisons to determine variances shall be determined using the last 12 months usage data shown in Exhibit 1. All comparisons shall be between like months (December '15 and December '14; November '15 and November '14, etc). If no data was provided for an account (represented by "na" in the Exhibit 1 spreadsheet) then price adjustments will not apply. The contractor will be responsible for providing GSA with documentation (e.g. invoices, sales receipts, purchase receipts, etc) clearly identifying costs.

Contractors will be required to include any information on the invoice other than the firm fixed or index price as itemized line items.

In the event an LDC does not perform monthly meter readings, the total monthly usage will be calculated using the total usage divided by the total number of months shown on the LDC invoice. The usage for each month (when obtained) will be used for balancing to contract volumes.

### **OPTION I:**

During each month of delivery for the term of the contract, the Government may over or under burn the estimated quantities as specified by month for each account listed in Exhibit 1. The contractor is responsible for supplying the facilities' full requirements under this option. The awarded contract price shall apply to the estimated contract volumes and those quantities over or under burned monthly within an established allowable percentage volume variance. For example: if ten percent (10%) allowable variance of the estimated quantities listed in Exhibit 1 is selected then:

1. The price of gas burned in excess of 110% of historical volumes shall be found by using the applicable monthly price index published as "Midpoint Averages" in the monthly Gas Daily Price Guide for the associated month, plus transportation if any (if citygate index price no transportation will be added), fixed margin of \$0.10 per decatherm (dth), and procurement fee of \$0.05 per dth (as defined in Section A.19).

2. The price of any gas below 90% of historical volumes that was not burned shall be sold and priced using the applicable monthly price index published as "Midpoint Averages" in Gas Daily Price Guide for the associated month and applied as follows:

a) If the index price is less than the fixed contract price, contractor shall be entitled to compensation in the amount of the fixed contract price minus the index price for the month multiplied by the unused dth quantity.

b) If the index price is greater than the fixed contract price, customer shall receive credit in the amount of the index price for the month minus the fixed contract price multiplied by one half the unused dth quantities.

NOTE: The \$0.05/dth fixed procurement fee which is included in the awarded contract price shall be subtracted from calculation of either compensation or credit referenced in 2.a) and 2.b) above.

Contractor shall submit to the account manager a copy of the monthly invoice and a spreadsheet listing the additional quantities of gas purchased or gas sold, the applicable Gas Daily index pipeline pricing point, and as applicable, transportation cost, fixed \$0.10 margin, and fixed-procurement fee of \$0.05. This additional gas purchased or sold shall be listed on the monthly invoice as a separate line item with any associated comments. Once the applicable pricing point has been chosen and documentation provided to the account manager, Contractors will not be allowed to switch for the remainder of the contract.

#### **OPTION II:**

The supply of natural gas to be provided to each Federal facility account under option two shall be one hundred percent (100%) usage, full requirements, firm fixed price option with no guaranteed usage/volumes to the contractor and no usage restrictions to the Government. The Government shall be invoiced monthly on actual usage at the awarded contract price, with unlimited usage. During any month of delivery for the term of the contract, the Government may over or under burn the estimated quantities as specified by month for each account listed in Exhibit 1. In both over burn and under burn scenarios, the Government shall be invoiced at the awarded contract price for actual usage. See section A.20 MATERIAL CHANGE for additional information regarding changes in historical usage.

#### **OPTION III:**

The supply of natural gas to be provided to each Federal facility account under option three shall be a Firm fixed price for the designated percentage (eg: 0% to 100%) of the facilities full requirements and index based price for the designated remaining percentage of the facilities full requirements (eg: 25%) for the contract term specified. Referenced percentages (Firm and Index) will be identified in Exhibit 1. **Note this option is a Full Requirements Supply Option.**

The Government shall have the right during the term of this agreement to lock-in the price for the percentage of the Indexed Priced gas for any or all month(s) remaining in the term of the contract by notifying the contractor of the Government's desire to do so. The Government will provide the contractor with a notice identifying the month(s) and estimated monthly volumes it desires to lock in. Note A.4 (c) below. Under this option, the Government may elect to lock Indexed priced gas at firm fixed prices as noted or at pre-established trigger prices based on the escalation in commodity indices such as NYMEX Henry Hub Prices.

### **A.4 CONTRACT PRICING**

#### **OPTIONS I AND II**

1. The total price to be paid to the Contractor for the gas supply and related service(s) provided to the facility under the full requirements supply options (with usage variance – Option 1; without usage variance - Option 2), shall include the Contractor's costs, margin and the procurement fee stated in paragraph A.19 of this solicitation and shall be in effect for the entire term of the agreement.

#### **OPTION III**

1. The total price to be paid to the Contractor for the gas supply and related service(s) provided hereunder shall be the total of a designated percentage of Firm Fixed Price gas and Indexed Price Gas and shall consist of a commodity element and a transportation element as follows:

(a) Commodity Element of Cost:



Firm Fixed Price Gas: The Commodity Price to be paid for Firm Fixed Price Gas shall be the Firm Fixed Unit Price per dth multiplied by the designated percentage (eg:75%) of gas delivered and accepted by the LDC for each Federal facility account. The Firm Fixed Unit Price per dth shall be a bundled firm fixed price for natural gas delivered to the citygate, including all Contractor cost and margin plus the procurement fee of \$0.05 per dth (as defined in Section A.19) and shall be in effect for the entire term of the agreement.

Index Based Gas: The Commodity Price to be paid for Index Based Gas shall be the applicable Index Based Unit Price per dth multiplied by the Index Based Gas Volume per dth for the designated remaining percentage (eg:25%) of gas delivered and accepted by the LDC for each Federal facility account. The Index Based Unit Price shall be based on the monthly "Midpoint Averages" Henry Hub Index as published in the monthly Gas Daily Price Guide for the associated month.

- (b) Transportation Element: Contractor shall transport the Index Based Gas to the Citygate specified for each month of delivery required by the contract for a bundled firm fixed price. Such transportation charge shall include all contractor costs associated with delivering the index-based gas to the Citygate/Delivery Point, such as line losses and/or Fuel Factor adjustments, all applicable royalties and taxes, the procurement fee of \$0.05 per dth (as defined in Section A.19), and Contractor margin.

Note: under Option III, GSA will only request a transportation (basis) price through the auction and will not request a fixed price for any percentage of gas commodity through the auction.

- (c) Commodity Price Lock In Option: Per Section A.3 of the Solicitation, under Pricing Option III the Government has the right to lock in commodity pricing if it chooses to do so. The Government will have the right to lock-in pricing up to three (3) times over the term of the contract awarded. If it chooses to lock-in commodity pricing, the Government will provide notice of those months and volumes it wishes to lock-in and will ask contractors to lock-in this pricing on a timely basis.

Unless otherwise agreed, any such pricing offer shall remain open for acceptance by the government until 2:00 PM Eastern Time on day of pricing offer. There will be no limitations on how few or many months for each lock-in request. (i.e., 1 month or for the entire remainder of the contract term) but the Government will be limited to a total of 3 lock-ins over the term of the contract awarded.

All contractor costs including potential administrative cost for locking-in pricing up to 3 times should be included in the basis bid prices submitted during the auctions.

## **INDUSTRY CONSIDERATIONS:**

In the event that the indices and/or pricing points utilized under Options I & III herein for deriving the Index Based Unit Price no longer exist or become so substantially different in nature so as to render their use inappropriate for the purpose of this Contract, or if for any other reason the Contractor and the Contracting Officer agree that the applicable published Index no longer reflects an appropriate benchmark for determining the market price of Natural Gas, the parties may determine that the Indexes are no longer valid for use in determining the Index Based Unit Price for gas under this Contract. The parties shall agree upon an alternative method of computing the Index Based unit price for the remainder of the Contract. If the parties can't come to agreement then the dispute will be resolved utilizing alternative disputes resolution procedures as stipulated in FAR 52.233-1

## **A.5 TERM**

The initial term of this Agreement shall be for the number of full billing cycles specified in the auction schedule in Exhibit 1. The service start and end dates shall be established by either the date specified in the auction schedule or the next meter read date immediately following the date specified in the auction

schedule in Exhibit 1 pursuant to specific LDC enrollment procedures. It will be the Contractor's responsibility to ensure that the delivery start date complies with these terms and any penalties resulting from missing this required service start date shall be borne by the Contractor. Should an extension beyond the original contract term be required by the Contracting Officer, a bilateral contract extension shall be negotiated for a term of up to 12 months beyond the end of the original contract term.

#### **A.6 DELIVERY POINT**

The "Natural Gas Delivery Point", as specified in the Exhibit 1 for such natural gas shall be that point on the distribution system at which the LDC takes possession and ownership of the natural gas supply (citygate) for final delivery to the facility meter (burnertip). This same Delivery Point shall be where the facility takes title to the natural gas though Contractors are required to manage the natural gas to the burnertip.

#### **A.7 METERING AND BILLING**

Metering and billing services under this contract shall be provided in accordance with the terms of Section A.17. If billing services are rendered by the LDC, it shall be the Contractor's responsibility to coordinate with the utility company to ensure that the Contractor receives proper reimbursement for natural gas supply delivered to the specified LDC for each account, whether master account, summary billed account or individually metered account. It shall be the Contractor's responsibility to know and understand the specific details and requirements for independent and/or summary billing, reporting, and coordinating with the aforementioned utility companies. Special billing requirements and procedures are discussed below.

- (a) The rates and charges contained in this solicitation will be billed monthly unless a Federal facility requests and the Contractor and GSA/CO agree to another arrangement. A monthly billing period is defined as a period consisting of not less than 27 days and not more than 35 days. Bills for shorter or longer periods than defined herein shall be prorated on the basis of the number of days divided by 30.
- (b) Bills are due and payable in accordance with the Prompt Payment Act. The late payment charge will be one and one half percent (1-1/2 %.) per month.
- (c) Each Federal and Non Federal facility shall be responsible for payment of bills rendered by either a Contractor and/or LDC.
- (d) For pricing Options I & III where index-based gas is delivered, suppliers are required to include the applicable price index as published in Gas Daily Price Guide and pipeline pricing point associated with any transport costs (if applicable).

#### **A.8 NOMINATING AND BALANCING RESPONSIBILITIES**

It is the Contractor's responsibility to conduct all required nominations on behalf of the accounts specified herein. –

The Contractor shall be fully familiar with the LDC and pipeline tariff provisions including operational and billing requirements such as imbalance policies, interstate/intrastate transmission losses of the LDC and other interstate/intrastate transmission companies. Any costs or penalties associated with activities upstream of the Delivery Point (eg: charges for balancing, nominating, storage, pooling costs, upstream and capacity requirements, billing charges, etc) are to be evaluated prior to bid and included in the offeror's bid price. These costs will be the sole responsibility of the Contractor. Unless approved in writing by the Government prior to the bid, all costs associated with these items will be billed individually by facility.

In instances of consolidated billing, LDC charges passed through to the facility by the Contractor for balancing, nominating, storage, pooling costs, billing charges, etc will be passed through at cost.

The Government will not be responsible for any penalties or other costs caused by the Contractor. Any utility assets including natural gas banks assigned to and paid for by the facility for transport or supply will be used solely for the transport of natural gas purchased for the facility.

**A.9 LINE LOSSES**

The data provided in Exhibit 1 is historical usage for the facilities and is for usage baseline and planning purposes only. The historical volumes provided are burner tip usage. Burner tip usage, pipeline and LDC line loss volumes will be combined and billed at the contract rate. Line losses are not included as part of any usage variance provision. The Contractor is responsible for the analysis of all account data available and the acquisition of adequate quantities for each facility.

**A.10 CREDIT FOR DEFAULT SERVICE**

If at any time (unless under a condition of Force Majeure) an account covered by this contract is forced to accept default service from the LDC serving in its capacity as the utility Contractor of last resort, the Contractor shall be responsible for payment of any additional costs incurred over and above the contract award price. Force Majeure in terms of this contract will refer to any of the events described in Section A.25

**A.11 RISK OF LOSS**

Risk of loss of natural gas supplied under this contract shall remain with the Contractor until, and shall pass to the facility only upon, delivery of said natural gas to the Delivery Point specified for each facility account.

**A.12 PROTECTION OF CONTRACT INFORMATION**

The Government will take the necessary and usual steps to maintain the confidentiality of information submitted by Offerors prior to award of the contract. The Contractor is advised that the Government will make all contract prices publicly available for the full contract period upon contract award or awards. The Contractor shall also comply with all Federal regulations regarding the protection of all facility data and information furnished to the Contractor by the LDC.

**A.13 ANTI-DEFICIENCY**

In accordance with the Anti-Deficiency Act (31 U.S.C. 1341(a) (1)), nothing contained herein shall be construed as binding the Federal Government to expend, in any one fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year in furtherance of the subject matter of the contract or to involve the Federal Government in an obligation for the future expenditure of moneys before an appropriation is made.

**A.14 FILINGS WITH REGULATORY AUTHORITIES**

Contractor shall file and pay, at no additional cost to the Federal Government, for any licenses, permits, registrations or other filings with applicable Federal, State, or local regulatory authorities, which are necessary for the Contractor to perform its obligations under this Contract. Contractor agrees to process diligently all applications, permits, or reports required. This paragraph does not apply to those certifications required of the Federal Government in order for the facility's accounts to receive Natural Gas from LDC's.

**A.15 AUTHORIZED USERS**

This contract is available, through the GSA/PBS Energy Division, for the use of all Federal agencies; agency-sponsored universities and laboratories; and as authorized by law or regulation, state, local, and tribal Governments, and other organizations. All organizations listed in GSA Order ADM 4800.2 (as updated) are eligible to use this contract; however prior to utilizing this contract, all authorized users must execute a Memorandum of Understanding (MOU) with the GSA/PBS Energy Division.

**A.16 ADDING AND DELETING FACILITIES TO THIS CONTRACT**

It is possible that certain authorized facilities will choose to satisfy their competitive natural gas requirements by the use of this contract. In this event the Government shall provide the Contractor with the facility's revised natural gas requirement and the two parties shall mutually agree as to whether to extend the full terms and conditions of this contract to such facility account(s) located in any, and/or all respective service territories. It is also possible that some accounts that are enrolled under this contract

may subsequently be deleted at the facilities request. Deleting an account will be handled under the terms included in Section A.26 Special Contract Termination and execution of a Standard Form 30 – Amendment of Solicitation/Modification of Award. Adding an account shall be accomplished through the bilateral execution of Standard Form 30 – Amendment of Solicitation/Modification of Award. The Contractor has thirty (30) days from the execution of the Standard Form 30 to add or delete account(s) from this contract.

In an applicable LDC where the policy is to change account numbers upon enrollment with a third-party contractor; the facility will not be considered an addition even if a new account number is assigned. If the LDC deems appropriate to change an account number for a facility during the term of this Contract, this will also not be considered an addition and it will continue to be served at the contract award price for the full term of the contract.

#### **A.17 PAYMENT AND BILLING**

For the purposes of this contract, Contractors will render monthly utility bills for each account included in this contract in accordance with the applicable LDC's dual billing procedures. The Contractor shall base all invoicing on metered quantities at the customer meter and all bills must be in dth or mmbtu volumes. If estimated usage values are used, the contractor shall adjust all estimated usage values to actual metered consumption levels no later than one (1) month after actual usage volumes are provided by the utility. Contractors will be required to include any price components on the invoice other than the awarded price as itemized line items. It shall be the Contractor's responsibility to understand the specific details regarding the LDC's requirements for billing, reporting, and coordinating.

There is no provision in this contract for consolidated billing, except in the states, municipalities, or locations where it is mandated by the governing regulatory commission and dual billing is not allowed.

Payment shall be in accordance with FAR 32.9 (Prompt Payment), including the clause at 52.232-25. If payment is to be made by electronic funds transfer, the provisions of FAR 32.11 (Electronic Funds Transfer), including the clause at 52.232-33 shall apply.

In addition to tendering original invoices to the authorized facility agency payment or finance office, it is also the contractor's responsibility to ensure a copy of the monthly billing invoice for each facility account will be promptly provided to the designated NGAP Account Manager specified in the contract either by postal mail at the General Services Administration (GSA), PBS, Office of Facility Management, , Patrick V. McNamara Federal Building, 477 Michigan Ave Rm 115, Detroit, MI 48226, electronic mail or as otherwise agreed.

Each end-use agency is responsible for paying its own bills and setting up delivery orders with contractors. Payment and billing will be in accordance with each end use agency's payment and billing policies. The agency responsible for paying bills for each account included in FY17 NGAP auctions will be listed in Exhibit 1.

**A.18 CONTRACT ADMINISTRATION**

After award, this contract shall be administered by the General Services Administration's Energy Center of Expertise.

The Contracting Officer for this contract shall be:

Miranda Webster  
 U.S. General Services Administration  
 PBS Office of Facility Management, Energy Division (PMA)  
 477 Michigan Ave, Rm 115  
 Detroit, MI 48226  
 (313) 317-9611 [miranda.webster@gsa.gov](mailto:miranda.webster@gsa.gov)

The Account Managers for the day-to-day administration will be identified in the award notification provided to each Contractor at the time of award.

**A.19 PROCUREMENT FEE**

The Contractor hereby agrees to the assessment of a procurement fee on all facility accounts included in this contract that will be reflected in the Contractor's price. This fee is \$0.05 /dth for all usage billed under this contract unless adjusted by the CO. This fee shall be paid directly to EnerNOC. by the successful Contractor(s) in accordance with the Payment Instructions Document found on their auction website, <http://www.exchange.enernoc.com/WebPortal/Public/Announcement.aspx?ID=nKKhfFgmTil%3d>. In the event EnerNOC provides notice to GSA that they have not received fees from a supplier for a period of three or more months, GSA will request either proof of payment from the supplier to EnerNOC or proof that the supplier has not received payment from the end-use facility.

**A.20 MATERIAL CHANGE**

The facility point of contact will promptly notify the Contractor and GSA CO of changes that may impact a facility's historical usage by more than 25% (a "material change") including those caused by furnace outages, boiler shutdowns, equipment replacements and additions, maintenance of equipment or compliance with Presidential Directives, Executive Orders and Public Laws and Regulations, including the facility switching to an alternate fuel source. Additionally, a material change cannot be caused by increases or decreases in operating hours caused by fluctuations in the weather. If the facility properly notifies Contractor of any material change, Contractor will pay any penalties imposed by the facility's LDC. If the facility fails to notify Contractor of a material change, facility shall pay all penalties imposed by facility's LDC. Liquidation of contracted natural gas positions will be done in accordance with Section A.26.

**A.21 SERVICE INTERRUPTION**

In the event that the market value of the committed firm requirement for "interruptible Service" facilities provides the opportunity to liquidate such volume at a price greater than the original value, the Contractor will notify the facility point of contact and the GSA CO of the opportunity and will sell such volume upon the request of the facility and GSA. The resulting revenue will be allocated in accordance with the following schedule.

<input type="checkbox"/> Facility	<b>90%</b>
<input type="checkbox"/> Contractor	<b>10%</b>
<b>Total:</b>	<b>100%</b>

In the event the LDC issues an interruption, supply curtailment, gas production period, entitlement period / operational flow order, etc; the Contractor is to notify the account manager and facility Point of Contact prior to the event in writing via e-mail or facsimile with the starting and ending dates and times of the restrictions.

**A.22 TAXES**

(a) The sales price provided will include all taxes that are imposed on the natural gas supply prior to the delivery point(s). All other taxes which are imposed with respect to the sale of the natural gas supply to facility which are incurred after the delivery point(s) will be passed through to the facility. If buyer is exempt from such taxes, facility will identify such exemption, and provide any applicable documentation. The United States Federal Government is exempt from State Sales Tax.

(b)(1) After-imposed Federal, State, and local tax, as used in this paragraph, means any new or increased Federal, State, and local tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

(2) After-relieved Federal, State, and local tax, as used in this paragraph, means any amount of Federal, State, and local tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but that the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

(c) The contract price shall be increased by the amount of any after-imposed Federal, State, and local tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal, State, and local tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal, State, and local tax.

(e) Any increases or decreases in the contract price as a result of paragraphs (b) and (c) next above shall be accomplished by a bilateral contract modification.

**A.23 CHANGE OF REGULATION**

(a)(1) After-imposed Federal, State, and local regulation, as used in this paragraph, means any new Federal, State, and/or local regulation that was exempted or non-existent on the contract date but whose exemption/addition was later revoked/added during the contract period, on the transactions covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, regulatory or administrative action taking effect after the contract date.

(2) After-relieved Federal, State, and local regulation, as used in this paragraph, means any Federal, State, and/or local regulation that previously resulted in payments on the transactions or property covered by this contract, but that the Contractor is no longer required to pay or bear, or for which the Contractor obtains a refund or reduction, as the result of legislative, judicial, regulatory or administrative action taking effect after the contract date.

(b) The contract price shall be increased by the amount of any after-imposed Federal, State, and local regulation, provided the Contractor warrants in writing that no amount for such newly imposed Federal, State, and local regulation or rate increase was included in the contract price, as a contingency reserve or otherwise.

(c) The contract price shall be decreased by the amount of any after-relieved Federal, State, and local regulation.

(d) Any increases or decreases in the contract price as a result of paragraphs (b) and (c) above shall be accomplished by a bilateral contract modification.

**A.24 QUALITY AND MEASUREMENT**

The contractor is solely responsible for the quality of gas upstream of the citygate. Measurement, testing, heating value, delivery pressure, and quality of natural gas supply delivered shall be in accordance with the applicable interstate/intrastate pipeline specifications. The facility shall not be obligated to purchase or pay for natural gas that either the LDC or the interstate pipeline has refused to accept due to nonconformance with its specifications. The Contractor shall furnish all labor, materials, tools, equipment,



and incidentals to supply and deliver direct supply natural gas to the LDC Citygate(s). The Contractor shall adhere at all times with applicable LDC tariff, agreements, rules and regulations.

#### **A.25 FORCE MAJEURE**

If either Party is rendered unable by Force Majeure to carry out, in whole or part, its obligations under this Agreement and such Party gives written notice and full details of the event to the other Party as soon as practicable, then during such Force Majeure, but for no longer than a period of 120 days in the aggregate during any 12 month period, then any obligations of the Claiming Party will be suspended. The parties expressly agree that upon the expiration of the 120 day period, Force Majeure will no longer apply to the obligations hereunder and both Parties will be obligated to perform. The Claiming Party will use commercially reasonable efforts to remedy the Force Majeure with reasonable dispatch. The Contractor shall supply to the Government Contracting Officer (CO) all documentation from its natural gas supplier(s) and/or transportation pipeline(s) which support the claim of Force Majeure.

In no event shall the economic hardship of either party constitute a Force Majeure condition. The following conditions, by themselves, shall not constitute a Force Majeure condition: the inability of the Contractor to obtain transportation, to obtain natural gas supply contracts, or the event of higher actual costs than contracted costs to the Contractor. Also See FAR Clause 52.212-4 and the Addendum to FAR 52.212-4 on Force Majeure located in Section B of this solicitation

#### **A.26 SPECIAL CONTRACT TERMINATION - LIQUIDATION OF CONTRACT POSITIONS**

At any time following contract execution or during the term of this contract, the Government may terminate this contract in its entirety or terminate service to individual accounts specified herein. The Government will pay any penalties imposed by the LDC or other appropriate authority associated with such termination in the event the subject contract account(s) were properly enrolled as required pursuant to Section A.28 herein. Upon termination, the Contractor and the Government will have no further obligation to each other with respect to the terminated contract or terminated individual accounts except as described herein.

If termination applies to a contract that is currently enrolled by the Contractor as the supplier of record with the LDC, then the Government must provide at least sixty (60) days prior notice of termination to the Contractor. Upon termination of an enrolled account(s), Contractor will return such account(s) to LDC service on the next available meter read date as determined by the LDC, and the party's respective obligations under this contract will cease on that meter read date. At the time the enrolled account(s) is terminated the Contractor will make a reasonable assessment of the difference between the Contract Price (Price A) and the market based price for the same supply at the time the contract is terminated (Price B). If Price A is greater than Price B the Government shall pay the Contractor the difference between Price A and Price B. If Price A is less than Price B, the Contractor shall pay the Government ninety (90%) percent of the difference between Price A and Price B. Such Contractor payment to the Government shall be made in the form of checks made out to the LDC in care of the respective Government accounts on a pro rata share basis within 30 days of contract termination. The Contractor's assessment of Price B shall include any incidental costs such as administrative costs, brokerage fees, transmission or increased tax costs for termination, provided such incidental costs are reasonable and documented for the Government.

All such costs shall be itemized and supported by appropriate proofs of payment or settlement resulting in the total amount resulting from the termination.

#### **A.27 INSTRUCTIONS FOR THE ORDERING AGENCY ARE CONTAINED IN ATTACHMENT (A)**

#### **A.28 ENROLLMENT**

The Contractor will be responsible for enrolling new accounts with the LDC and/or switching Government accounts from current natural gas supplier (LDC or third-party supplier) to Contractor and fulfilling any obligations with the LDC to that end. The Government will make its best effort to ensure that all accounts included under this Solicitation and the resulting auctions are transportable. However, it is the supplier's ultimate responsibility to verify that both new and existing accounts are transportable and will continue to

be over the life of the term awarded. All costs associated with a supplier not being able to service an account based on non-transportability issues will be borne by the supplier and not the Government. Post-award, suppliers will be responsible for notifying the Contracting Officer of any discrepancies associated with the number of meters at a particular facility in association with the historical volumes listed for each facility in Exhibit 1.

#### **A.29 LOAD REDUCTION**

The Federal Government will not be penalized in any way for pursuing energy conservation projects that reduce natural gas load requirements except as expressly detailed under A.20 Material Changes.

#### **A.30 DEFINITIONS**

All definitions are for the interpretation of this Contract:

- a) Billing Period - A period consisting of not less than 27 days and not more than 35 days. Bills for shorter or longer periods than defined herein shall be prorated on the basis of the number of days divided by 30.
- b) Burner-tip - Indicates the point of use for Natural Gas at the Federal facility account.
- c) Citygate- the point at which the LDC accepts the Natural Gas into their system.
- d) Contracting Officer (CO) – The person with authority to enter into, administer, and/or terminate contracts, as well as to make related determinations and findings.
- e) Confirmation - A written agreement executed by the Contractor, which specifies the estimated volume, pipelines utilized and pricing mechanisms of Natural Gas for a specified period.
- f) Account Manager – A NGAP official who is designated by the Contracting Officer to assist in administering specific aspects (such as Technical aspects) of the contract. (FAR 2.101)
- g) Delivered Cost - The all-inclusive cost consisting of the Commodity Cost, and Transportation Cost, of Natural Gas Supply to a Federal facility account for a given month.
- h) Delivery Intrastate Pipeline - The pipeline on which Natural Gas Supply is transported by the Contractor to the Delivery Point identified for each Facility account in the Task Order.
- i) Delivered Natural Gas - The Natural Gas that is supplied by Contractor under this Contract, which is delivered to and is confirmed by the LDC as reaching the Delivery Point identified in a Task Order.
- j) Delivery Point - The location on the Natural Gas Delivery System identified in each Task Order as to where title to the Natural Gas will pass from Contractor to the Federal facility account.
- k) Dth. – One Decatherm which is equivalent to one million british thermal units
- l) Entitlement Period/Operational Flow Order (OFO) - Periods of time during which the Contractor receives notice from the LDC that restrictions are in effect over the LDC's delivery system.
- m) Facility – The Federal facility account which request service under the Contract.
- n) FERC - The Federal Energy Regulatory Commission.

- o) Firm Fixed Price – A firm and fixed price for quantities of natural gas supply estimated to be used at the meter point during a given billing period for an account. This usage shall include peak, off-peak, weekends, and Holiday usage.
- p) Fixed Price - A negotiated Commodity or Delivered price set for a specific period.
- q) Firm Transportation Rate - Current tariff rate filed by the pipeline, or LDC with its regulatory authority, including monthly approved adjustments, such as: commodity demand charges, etc.
- r) Force Majeure – Events not reasonably anticipated or within the control of the claiming Party such as, but not limited to, acts of God, acts of the public enemy, actions of governments or regulatory bodies, future changes in laws, rules, regulations, or utility practices, or pipeline failure. See Section A.25 – Force Majeure of this solicitation.
- s) Full Requirements – Full 100% requirements of the facilities usage for the term specified.
- t) Index Price – The cost of Natural Gas at a particular Receipt or Citygate/Delivery Point, as published in a recognized Natural Gas Industry trade publication. The index price for purposes of this solicitation shall be the applicable index prices published in the Gas Daily Price Guide.
- u) LDC Line losses – The difference between the sums of all input quantities of Natural Gas Supply received into the Transporter's system and the sum of all output quantities of Natural Gas delivered from the Transporter's system. The difference shall exclude company-used Natural Gas and shall include, but not be limited to Gas vented, storage losses, and as a result of an event of Force Majeure. LDC line losses will equal the percentage factors allowed by the applicable LDCs for third-party gas suppliers and should be included in the price of each bid.
- v) Natural Gas - Any mixture of hydrocarbons and non-combustible Gases in a Gaseous state, consisting primarily of methane, which meets pipeline standards.
- w) Pipeline Line Losses: Pipeline line losses will equal the percentage factor allowed by the applicable intrastate and interstate pipeline and should be included in the price of each bid.
- x) Rate Class – Rate class is determined by the LDC. It is the method used by the LDC to bill for the consumption and transportation of gas.
- y) Receipt Point - The point on the Natural Gas Delivery System at which title to the Natural Gas is transferred to the Contractor.
- z) Service Start Date – The service start date shall be either the date specified in the auction schedule in Exhibit 1 or the next meter read date immediately following the date specified in the auction schedule in Exhibit 1.
- aa) Small Disadvantaged Business – Businesses, which are certified by the U.S. Small Business Administration as being socially and economically disadvantaged.
- bb) Supply Curtailment - Any restrictions imposed by the LDC by which the supply of Natural Gas is unable to flow through the LDC's delivery system to the applicable Delivery Point.
- cc) Task Order/Delivery Order – An order for services under this Contract (Purchase Order) (See Attachment A) which has been completed and signed by an authorized Facility included in paragraph A.14, which has been accepted by the Contractor and executed by the Government. This facilitates the invoicing and payment by Contractor/LDC and authorized Facility. An executed copy is to be provided to the account manager.

dd) Volume Delivered - The quantity of Natural Gas Supply, which is confirmed and accepted by the LDC for delivery to the Delivery Point, specified on each Task Order.

## **SECTION B: FEDERAL ACQUISITION REGULATION (FAR) CLAUSES/PROVISIONS**

### **B.1 CLAUSES/PROVISIONS INCORPORATED BY REFERENCE**

The full text of clauses/provisions incorporated by reference can be accessed at [www.acquisition.gov](http://www.acquisition.gov).

#### **(a) FAR 52.212-1 INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS (OCT 2015)**

##### **Addendum to FAR 52.212-1**

The offeror agrees to hold the prices offered in response to this solicitation until 2:00 p.m. on the date specified in Section C.3 of this solicitation

#### **(b) FAR 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (MAY 2015)**

##### **Addendum To FAR 52.212-4**

- (1) The following section on Title overcomes and has precedence over the Title section of the clause at FAR 52.212-4 (n) in its entirety.

##### **TITLE**

Title to natural gas supplied by the Contractor under this contract shall pass from the Contractor to the Government upon delivery of said natural gas to the Delivery Point. The Contractor warrants that the natural gas delivered to the Government under this contract will be free and clear of all liens, claims and encumbrances arising prior to delivery to the Delivery Point.

- (2) The following section on Force Majeure supersedes and has precedence over the Excusable Delays section of the clause at 52.214-4 (f) in its entirety.

##### **FORCE MAJEURE**

The Contractor shall be responsible for delivery of natural gas to the Delivery Points specified under the terms of the contract unless a condition of Force Majeure is in effect. As used herein, "Force Majeure" means any cause beyond the reasonable control of, and without the fault or negligence of, the party claiming Force Majeure. It shall include, without limitation, sabotage, strikes, acts of God, war, riot, civil disturbance, drought, earthquake, flood, explosion, fire, lightning, landslide, delays of common carriers (for example, any third party transmission provider or LDU), and acts of the Government in either its sovereign or contractual capacity. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any Force Majeure condition, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such condition.

In no event shall the economic hardship of either party constitute a Force Majeure condition. Likewise, the inability of the Contractor to obtain transportation or natural gas unless such inability is due to a Force Majeure, or the event of higher actual costs than contracted costs to the Contractor shall not constitute a Force Majeure condition.

- (3) The following section on Termination for Cause supersedes and has precedence over the Termination for Cause section of the clause at FAR 52.212-4 (m) in its entirety.

The Government may terminate for cause in the event of a material failure to comply with any term or condition which is not remedied within 10 business days from the date of notice of the default. In the event of termination for cause, the Government shall not be liable to the contractor for any amount for supplies of services not accepted, and the Contractor shall be liable to the

Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience as provided for in Section A.14 of the Scope of Work.

(c) **FAR 52.204-7 SYSTEM FOR AWARD MANAGEMENT (JUL 2013)**

(d) **FAR 52.204-13 SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (JUL 2013)**

## **B.2 CLAUSES IN FULL TEXT**

### **FAR 52.204-19 INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)**

The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

### **FAR 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (JUN 2016)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- (1) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)
- (2) [52.233-3](#), Protest After Award (Aug 1996) ([31 U.S.C. 3553](#)).
- (3) [52.233-4](#), Applicable Law for Breach of Contract Claim (Oct 2004)(Public Laws 108-77 and 108-78 ([19 U.S.C. 3805 note](#))).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

☒ (1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) ([41 U.S.C. 4704](#) and [10 U.S.C. 2402](#)).

☐ (2) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Oct 2015) ([41 U.S.C. 3509](#)).

☐ (3) [52.203-15](#), Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

☒ (4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2015) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).

☐ (5) [Reserved].

☐ (6) [52.204-14](#), Service Contract Reporting Requirements (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

☐ (7) [52.204-15](#), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

☒ (8) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Oct 2015) ([31 U.S.C. 6101 note](#)).

☐ (9) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) ([41 U.S.C. 2313](#)).

☐ (10) [Reserved].

☐ (11)(i) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) ([15 U.S.C. 657a](#)).

☐ (ii) Alternate I (Nov 2011) of [52.219-3](#).

☐ (12)(i) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](#)).

☐ (ii) Alternate I (Jan 2011) of [52.219-4](#).

☐ (13) [Reserved]

☐ (14)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (Nov 2011) ([15 U.S.C. 644](#)).



- \_\_\_ (ii) Alternate I (Nov 2011).
- \_\_\_ (iii) Alternate II (Nov 2011).
- \_\_\_ (15)(i) [52.219-7](#), Notice of Partial Small Business Set-Aside (June 2003) ([15 U.S.C. 644](#)).
- \_\_\_ (ii) Alternate I (Oct 1995) of [52.219-7](#).
- \_\_\_ (iii) Alternate II (Mar 2004) of [52.219-7](#).
- \_X\_ (16) [52.219-8](#), Utilization of Small Business Concerns (Oct 2014) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)).
- \_X\_ (17)(i) [52.219-9](#), Small Business Subcontracting Plan (Oct 2015) ([15 U.S.C. 637\(d\)\(4\)](#)).
- \_\_\_ (ii) Alternate I (Oct 2001) of [52.219-9](#).
- \_\_\_ (iii) Alternate II (Oct 2001) of [52.219-9](#).
- \_\_\_ (iv) Alternate III (Oct 2015) of [52.219-9](#).
- \_\_\_ (18) [52.219-13](#), Notice of Set-Aside of Orders (Nov 2011) ([15 U.S.C. 644\(r\)](#)).
- \_\_\_ (19) [52.219-14](#), Limitations on Subcontracting (Nov 2011) ([15 U.S.C. 637\(a\)\(14\)](#)).
- \_\_\_ (20) [52.219-16](#), Liquidated Damages—Subcon-tracting Plan (Jan 1999) ([15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).
- \_\_\_ (21) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) ([15 U.S.C. 657 f](#)).
- \_\_\_ (22) [52.219-28](#), Post Award Small Business Program Rerepresentation (Jul 2013) ([15 U.S.C. 632\(a\)\(2\)](#)).
- \_\_\_ (23) [52.219-29](#), Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) ([15 U.S.C. 637\(m\)](#)).
- \_\_\_ (24) [52.219-30](#), Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) ([15 U.S.C. 637\(m\)](#)).
- \_\_\_ (25) [52.222-3](#), Convict Labor (June 2003) (E.O. 11755).
- \_\_\_ (26) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (Feb 2016) (E.O. 13126).
- \_\_\_ (27) [52.222-21](#), Prohibition of Segregated Facilities (Apr 2015).
- \_X\_ (28) [52.222-26](#), Equal Opportunity (Apr 2015) (E.O. 11246).
- \_X\_ (29) [52.222-35](#), Equal Opportunity for Veterans (Oct 2015)([38 U.S.C. 4212](#)).
- \_X\_ (30) [52.222-36](#), Equal Opportunity for Workers with Disabilities (Jul 2014) ([29 U.S.C. 793](#)).
- \_X\_ (31) [52.222-37](#), Employment Reports on Veterans (Feb 2016) ([38 U.S.C. 4212](#)).
- \_X\_ (32) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- \_X\_ (33)(i) [52.222-50](#), Combating Trafficking in Persons (Mar 2015) ([22 U.S.C. chapter 78](#) and E.O. 13627).
- \_\_\_ (ii) Alternate I (Mar 2015) of [52.222-50](#) ([22 U.S.C. chapter 78](#) and E.O. 13627).
- \_X\_ (34) [52.222-54](#), Employment Eligibility Verification (Oct 2015). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in [22.1803](#).)
- \_\_\_ (35)(i) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) ([42 U.S.C. 6962\(c\)\(3\)\(A\)\(ii\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- \_\_\_ (ii) Alternate I (May 2008) of [52.223-9](#) ([42 U.S.C. 6962\(i\)\(2\)\(C\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- \_\_\_ (36) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).
- \_\_\_ (37) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).
- \_\_\_ (38)(i) [52.223-13](#), Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (Oct 2015) of [52.223-13](#).
- \_\_\_ (39)(i) [52.223-14](#), Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (Jun 2014) of [52.223-14](#).
- \_\_\_ (40) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (Dec 2007) ([42 U.S.C. 8259b](#)).

- \_\_\_ (41)(i) [52.223-16](#), Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (Jun 2014) of [52.223-16](#).
- \_\_\_ (42) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).
- \_\_\_ (43) [52.223-20](#), Aerosols (Jun 2016) (E.O. 13693).
- \_\_\_ (44) [52.223-21](#), Foams (Jun 2016) (E.O. 13693).
- \_X\_ (45) [52.225-1](#), Buy American—Supplies (May 2014) ([41 U.S.C. chapter 83](#)).
- \_\_\_ (46)(i) [52.225-3](#), Buy American—Free Trade Agreements—Israeli Trade Act (May 2014) ([41 U.S.C. chapter 83](#), [19 U.S.C. 3301](#) note, [19 U.S.C. 2112](#) note, [19 U.S.C. 3805](#) note, [19 U.S.C. 4001](#) note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).
- \_\_\_ (ii) Alternate I (May 2014) of [52.225-3](#).
- \_\_\_ (iii) Alternate II (May 2014) of [52.225-3](#).
- \_\_\_ (iv) Alternate III (May 2014) of [52.225-3](#).
- \_\_\_ (47) [52.225-5](#), Trade Agreements (Feb 2016) ([19 U.S.C. 2501](#), et seq., [19 U.S.C. 3301](#) note).
- \_X\_ (48) [52.225-13](#), Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- \_\_\_ (49) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).
- \_\_\_ (50) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) ([42 U.S.C. 5150](#)).
- \_\_\_ (51) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) ([42 U.S.C. 5150](#)).
- \_\_\_ (52) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (Feb 2002) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).
- \_\_\_ (53) [52.232-30](#), Installment Payments for Commercial Items (Oct 1995) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).
- \_X\_ (54) [52.232-33](#), Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) ([31 U.S.C. 3332](#)).
- \_\_\_ (55) [52.232-34](#), Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) ([31 U.S.C. 3332](#)).
- \_X\_ (56) [52.232-36](#), Payment by Third Party (May 2014) ([31 U.S.C. 3332](#)).
- \_\_\_ (57) [52.239-1](#), Privacy or Security Safeguards (Aug 1996) ([5 U.S.C. 552a](#)).
- \_\_\_ (58)(i) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)).
- \_\_\_ (ii) Alternate I (Apr 2003) of [52.247-64](#).
- (c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [Contracting Officer check as appropriate.]
- \_\_\_ (1) [52.222-17](#), Nondisplacement of Qualified Workers (May 2014)(E.O. 13495).
- \_\_\_ (2) [52.222-41](#), Service Contract Labor Standards (May 2014) ([41 U.S.C. chapter 67](#)).
- \_\_\_ (3) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (May 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).
- \_\_\_ (4) [52.222-43](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (May 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).
- \_\_\_ (5) [52.222-44](#), Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (May 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).
- \_\_\_ (6) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014) ([41 U.S.C. chapter 67](#)).
- \_\_\_ (7) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (May 2014) ([41 U.S.C. chapter 67](#)).
- \_\_\_ (8) [52.222-55](#), Minimum Wages Under Executive Order 13658 (Dec 2015).

\_\_\_ (9) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (May 2014) ([42 U.S.C. 1792](#)).

\_\_\_ (10) [52.237-11](#), Accepting and Dispensing of \$1 Coin (Sept 2008) ([31 U.S.C. 5112\(p\)\(1\)](#)).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at [52.215-2](#), Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR [Subpart 4.7](#), Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Oct 2015) ([41 U.S.C. 3509](#)).

(ii) [52.219-8](#), Utilization of Small Business Concerns (Oct 2014) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(iii) [52.222-17](#), Nondisplacement of Qualified Workers (May 2014) (E.O. 13495). Flow down required in accordance with paragraph (I) of FAR clause [52.222-17](#).

(iv) [52.222-21](#), Prohibition of Segregated Facilities (Apr 2015)

(v) [52.222-26](#), Equal Opportunity (Apr 2015) (E.O. 11246).

(vi) [52.222-35](#), Equal Opportunity for Veterans (Oct 2015) ([38 U.S.C. 4212](#)).

(vii) [52.222-36](#), Equal Opportunity for Workers with Disabilities (Jul 2014) ([29 U.S.C. 793](#)).

(viii) [52.222-37](#), Employment Reports on Veterans (Feb 2016) ([38 U.S.C. 4212](#))

(ix) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(x) [52.222-41](#), Service Contract Labor Standards (May 2014) ([41 U.S.C. chapter 67](#)).

(xi)

[52.222-50](#), Combating Trafficking in Persons (Mar 2015) ([22 U.S.C. chapter 78](#) and E.O. 13627). Alternate I (Mar 2015) of [52.222-50](#) ([22 U.S.C. chapter 78](#) and E.O. 13627).

(xii) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) ([41 U.S.C. chapter 67](#)).

(xiii) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) ([41 U.S.C. chapter 67](#)).

(xiv) [52.222-54](#), Employment Eligibility Verification (Oct 2015) (E.O. 12989).

(xv) [52.222-55](#), Minimum Wages Under Executive Order 13658 (Dec 2015).

(xvi) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).

(xvii) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (May 2014) ([42 U.S.C. 1792](#)). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).

(xviii) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](#).

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

#### **FAR 52.216-18 ORDERING (OCT 1995)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from Oct 1, 2016 through Sep 30, 2016.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

#### **FAR 52.216-21 REQUIREMENTS (OCT 1995)**

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after date specified in any resultant orders.

#### **FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 10 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed the term of the award plus 6 months.

#### **FAR 52.212-2 EVALUATION—COMMERCIAL ITEMS (OCT 2014)**

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered.

Technical qualifications (See Section C), price and past performance in descending order of importance. This is a two-step evaluation process. Only offerors found technically qualified will be allowed to participate in the pricing events. During the pricing events on the reverse auction platform, price is the most important factor.

(b) Options. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

**FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS - COMMERCIAL ITEMS. (JUN 2016)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- (1) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)
- (2) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).
- (3) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004)(Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

  X   (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

       (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509)).

       (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

  X   (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2015) (Pub. L. 109-282) (31 U.S.C. 6101 note).

       (5) [Reserved].

       (6) 52.204-14, Service Contract Reporting Requirements (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

       (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

  X   (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Oct 2015) (31 U.S.C. 6101 note).

       (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).

       (10) [Reserved].

       (11)(i) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) (15 U.S.C. 657a).

       (ii) Alternate I (Nov 2011) of 52.219-3.

       (12)(i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

- ☐ (ii) Alternate I (Jan 2011) of 52.219-4.
- ☐ (13) [Reserved]
- ☐ (14)(i) 52.219-6, Notice of Total Small Business Set-Aside (Nov 2011) (15 U.S.C. 644).
- ☐ (ii) Alternate I (Nov 2011).
- ☐ (iii) Alternate II (Nov 2011).
- ☐ (15)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).
- ☐ (ii) Alternate I (Oct 1995) of 52.219-7.
- ☐ (iii) Alternate II (Mar 2004) of 52.219-7.
- ☒ (16) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637(d)(2) and (3)).
- ☒ (17)(i) 52.219-9, Small Business Subcontracting Plan (Oct 2015) (15 U.S.C. 637(d)(4)).
- ☐ (ii) Alternate I (Oct 2001) of 52.219-9.
- ☐ (iii) Alternate II (Oct 2001) of 52.219-9.
- ☐ (iv) Alternate III (Oct 2015) of 52.219-9.
- ☐ (18) 52.219-13, Notice of Set-Aside of Orders (Nov 2011) (15 U.S.C. 644(r)).
- ☐ (19) 52.219-14, Limitations on Subcontracting (Nov 2011) (15 U.S.C. 637(a)(14)).
- ☐ (20) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- ☐ (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657 f).
- ☐ (22) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).
- ☐ (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) (15 U.S.C. 637(m)).
- ☐ (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) (15 U.S.C. 637(m)).
- ☐ (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- ☐ (26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Feb 2016) (E.O. 13126).
- ☐ (27) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
- ☒ (28) 52.222-26, Equal Opportunity (Apr 2015) (E.O. 11246).
- ☒ (29) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).
- ☒ (30) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).
- ☒ (31) 52.222-37, Employment Reports on Veterans (Oct 2015) (38 U.S.C. 4212).
- ☒ (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- ☒ (33)(i) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).
- ☐ (ii) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- ☒ (34) 52.222-54, Employment Eligibility Verification (Oct 2015). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- ☐ (35)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- ☐ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- ☐ (36)(i) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).
- ☐ (ii) Alternate I (Oct 2015) of 52.223-13.
- ☐ (37)(i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).
- ☐ (ii) Alternate I (Jun 2014) of 52.223-14.
- ☐ (38) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).



\_\_\_ (39)(i) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).

\_\_\_ (ii) Alternate I (Jun 2014) of 52.223-16.

\_\_\_ (40) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).

\_X\_ (41) 52.225-1, Buy American—Supplies (May 2014) (41 U.S.C. chapter 83).

\_\_\_ (42)(i) 52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act (May 2014) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).

\_\_\_ (ii) Alternate I (May 2014) of 52.225-3.

\_\_\_ (iii) Alternate II (May 2014) of 52.225-3.

\_\_\_ (iv) Alternate III (May 2014) of 52.225-3.

\_X\_ (43) 52.225-5, Trade Agreements (Feb 2016) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

\_X\_ (44) 52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

\_\_\_ (45) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

\_\_\_ (46) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

\_\_\_ (47) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

\_\_\_ (48) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

\_\_\_ (49) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

\_X\_ (50) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) (31 U.S.C. 3332).

\_\_\_ (51) 52.232-34, Payment by Electronic Funds Transfer - Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

\_X\_ (52) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).

\_\_\_ (53) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

\_\_\_ (54)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

\_\_\_ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [Contracting Officer check as appropriate.]

\_\_\_ (1) 52.222-17, Nondisplacement of Qualified Workers (May 2014)(E.O. 13495).

NOT APPLICABLE (2) 52.222-41, Service Contract Labor Standards (May 2014) (41 U.S.C. chapter 67).

\_\_\_ (3) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

\_\_\_ (4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

\_\_\_ (5) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

NOT APPLICABLE (6) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014) (41 U.S.C. chapter 67).

NOT APPLICABLE (7) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (May 2014) (41 U.S.C. chapter 67).

NOT APPLICABLE (8) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015) (E.O. 13658).



NOT APPLICABLE (9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (May 2014) (42 U.S.C. 1792).

\_\_\_ (10) 52.237-11, Accepting and Dispensing of \$1 Coin (Sept 2008) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509).

(ii) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

(iv) 52.222-21, Prohibition of Segregated Facilities (Apr 2015)

(v) 52.222-26, Equal Opportunity (Apr 2015) (E.O. 11246).

(vi) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).

(vii) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).

(viii) 52.222-37, Employment Reports on Veterans (Oct 2015) (38 U.S.C. 4212)

(ix) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(x) 52.222-41, Service Contract Labor Standards (May 2014) (41 U.S.C. chapter 67).

\_\_\_(A) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).

\_\_\_(B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).

(xii) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).

(xiii) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. chapter 67).

(xiv) 52.222-54, Employment Eligibility Verification (Oct 2015) (E.O. 12989).

(xv) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015) (E.O. 13658).

(xvi) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xvii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (May 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xviii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(ix) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(x) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(xi) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.

(xii) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xiii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xiv) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

(xv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA-designated items.

(xvi) 52.225-2, Buy American Certificate. This provision applies to solicitations containing the clause at 52.225-1.

(xvii) 52.225-4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225-3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$77,533, the provision with its Alternate II applies.

(D) If the acquisition value is \$77,533 or more but is less than \$100,000, the provision with its Alternate III applies.

(xviii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.

(xix) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification. This provision applies to all solicitations.

(xx) 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications. This provision applies to all solicitations.

(xxi) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

(2) The following representations or certifications are applicable as indicated by the Contracting Officer:

[Contracting Officer check as appropriate.]

\_\_\_ (i) 52.204-17, Ownership or Control of Offeror.

\_\_\_ (ii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

\_\_\_ (iii) 52.222-48, Exemption from Application of the Service Contract Labor Standards to Contracts for 52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders - Commercial Items.

As prescribed in 12.301(b)(4), insert the following clause:

**Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Feb 2016)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- (1) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)
- (2) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).
- (3) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004)(Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

  X   (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

       (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509)).

       (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

  X   (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2015) (Pub. L. 109-282) (31 U.S.C. 6101 note).

       (5) [Reserved].

       (6) 52.204-14, Service Contract Reporting Requirements (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

       (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

  X   (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Oct 2015) (31 U.S.C. 6101 note).

       (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).

       (10) [Reserved].

       (11)(i) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) (15 U.S.C. 657a).

       (ii) Alternate I (Nov 2011) of 52.219-3.

       (12)(i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

       (ii) Alternate I (Jan 2011) of 52.219-4.

       (13) [Reserved]

       (14)(i) 52.219-6, Notice of Total Small Business Set-Aside (Nov 2011) (15 U.S.C. 644).

       (ii) Alternate I (Nov 2011).

       (iii) Alternate II (Nov 2011).

       (15)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

       (ii) Alternate I (Oct 1995) of 52.219-7.

       (iii) Alternate II (Mar 2004) of 52.219-7.

  X   (16) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637(d)(2) and (3)).

  X   (17)(i) 52.219-9, Small Business Subcontracting Plan (Oct 2015) (15 U.S.C. 637(d)(4)).

       (ii) Alternate I (Oct 2001) of 52.219-9.

       (iii) Alternate II (Oct 2001) of 52.219-9.

       (iv) Alternate III (Oct 2015) of 52.219-9.

       (18) 52.219-13, Notice of Set-Aside of Orders (Nov 2011) (15 U.S.C. 644(r)).

       (19) 52.219-14, Limitations on Subcontracting (Nov 2011) (15 U.S.C. 637(a)(14)).

- \_\_\_ (20) 52.219-16, Liquidated Damages—Subcon-tracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- \_\_\_ (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657 f).
- \_\_\_ (22) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).
- \_\_\_ (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) (15 U.S.C. 637(m)).
- \_\_\_ (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) (15 U.S.C. 637(m)).
- \_\_\_ (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- \_\_\_ (26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Feb 2016) (E.O. 13126).
- \_\_\_ (27) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
- \_X\_ (28) 52.222-26, Equal Opportunity (Apr 2015) (E.O. 11246).
- \_X\_ (29) 52.222-35, Equal Opportunity for Veterans (Oct 2015)(38 U.S.C. 4212).
- \_X\_ (30) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).
- \_X\_ (31) 52.222-37, Employment Reports on Veterans (Oct 2015) (38 U.S.C. 4212).
- \_X\_ (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- \_X\_ (33)(i) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).
- \_\_\_ (ii) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- \_X\_ (34) 52.222-54, Employment Eligibility Verification (Oct 2015). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- \_\_\_ (35)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- \_\_\_ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- \_\_\_ (36)(i) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (Oct 2015) of 52.223-13.
- \_\_\_ (37)(i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (Jun 2014) of 52.223-14.
- \_\_\_ (38) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).
- \_\_\_ (39)(i) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (Jun 2014) of 52.223-16.
- \_\_\_ (40) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).
- \_X\_ (41) 52.225-1, Buy American—Supplies (May 2014) (41 U.S.C. chapter 83).
- \_\_\_ (42)(i) 52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act (May 2014) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).
- \_\_\_ (ii) Alternate I (May 2014) of 52.225-3.
- \_\_\_ (iii) Alternate II (May 2014) of 52.225-3.
- \_\_\_ (iv) Alternate III (May 2014) of 52.225-3.
- \_X\_ (43) 52.225-5, Trade Agreements (Feb 2016) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

X   (44) 52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

       (45) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

       (46) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

       (47) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

       (48) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

       (49) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

  X   (50) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) (31 U.S.C. 3332).

       (51) 52.232-34, Payment by Electronic Funds Transfer - Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

  X   (52) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).

       (53) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

       (54)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

       (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [Contracting Officer check as appropriate.]

       (1) 52.222-17, Nondisplacement of Qualified Workers (May 2014)(E.O. 13495).

NOT APPLICABLE (2) 52.222-41, Service Contract Labor Standards (May 2014) (41 U.S.C. chapter 67).

       (3) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

       (4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

       (5) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

NOT APPLICABLE (6) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014) (41 U.S.C. chapter 67).

NOT APPLICABLE (7) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (May 2014) (41 U.S.C. chapter 67).

NOT APPLICABLE (8) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015) (E.O. 13658).

NOT APPLICABLE (9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (May 2014) (42 U.S.C. 1792).

       (10) 52.237-11, Accepting and Dispensing of \$1 Coin (Sept 2008) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination

settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

- (i) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509).
- (ii) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
- (iii) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.
- (iv) 52.222-21, Prohibition of Segregated Facilities (Apr 2015)
- (v) 52.222-26, Equal Opportunity (Apr 2015) (E.O. 11246).
- (vi) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).
- (vii) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).
- (viii) 52.222-37, Employment Reports on Veterans (Oct 2015) (38 U.S.C. 4212)
- (ix) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.
- (x) 52.222-41, Service Contract Labor Standards (May 2014) (41 U.S.C. chapter 67).
- \_\_\_(A) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).
- \_\_\_(B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- (xii) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).
- (xiii) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. chapter 67).
- (xiv) 52.222-54, Employment Eligibility Verification (Oct 2015) (E.O. 12989).
- (xv) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015) (E.O. 13658).
- (xvi) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
- (xvii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (May 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
- (xviii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

Maintenance, Calibration, or Repair of Certain Equipment- Certification.

- \_\_\_(iv) 52.222-52, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.
- \_\_\_(v) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).
- \_\_\_(vi) 52.227-6, Royalty Information.
- \_\_\_(A) Basic.
- \_\_\_(B) Alternate I.
- \_\_\_(vii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically via the SAM website accessed through <https://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR CLAUSE # TITLE DATE CHANGE

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on SAM.  
(End of provision)

#### **FAR 52.233-2 SERVICE OF PROTEST (SEP 2006))**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

Miranda Webster, Contracting Officer  
PBS Office of Facilities Management – Energy Division (PMA)  
477 Michigan Ave Room 115  
Detroit, MI 48226

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

#### **The following clause is for Department of Veteran's Affairs accounts only:**

#### **VAAR 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012)**

(a) Definitions. As used in this clause-

(1) Contract financing payment has the meaning given in FAR 32.001 External link to a government website.

(2) Designated agency office has the meaning given in 5 CFR 1315.2(m).

(3) Electronic form means an automated system transmitting information electronically according to the accepted electronic data transmission methods and formats identified in paragraph (c) of this clause. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests.

(4) Invoice payment has the meaning given in FAR 32.001 External link to a government website.

(5) Payment request means any request for contract financing payment or invoice payment submitted by the contractor under this contract.

(b) Electronic payment requests. Except as provided in paragraph (e) of this clause, the contractor shall submit payment requests in electronic form. Purchases paid with a Government-wide commercial purchase card are considered to be an electronic transaction for purposes of this rule, and therefore no additional electronic invoice submission is required.

(c) Data transmission. A contractor must ensure that the data transmission method and format are through one of the following:

(1) VA's Electronic Invoice Presentment and Payment System. (See Web site at <http://www.fsc.va.gov/einvoice.asp>.)

(2) Any system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) and chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (<http://www.x12.org> External link to a non-government website) includes additional information on EDI 810 and 811 formats.

(d) Invoice requirements. Invoices shall comply with FAR 32.905 External link to a government website.

(e) Exceptions. If, based on one of the circumstances below, the contracting officer directs that payment requests be made by mail, the contractor shall submit payment requests by mail through the United States Postal Service to the designated agency office. Submission of payment requests by mail may be required for:

(1) Awards made to foreign vendors for work performed outside the United States;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;

(3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;

(4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or

(5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.